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Bankruptcy Counsel for Weneta M. A. Kosmala, Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re:

ZOLITE A. SCOTT, deceased,

Debtor.

CASE NO. 8:08-bk-13960 ES

NOTICE OF SALE OF ESTATE PROPERTY**Sale Date:** April 13, 2010**Time:** 10:30 a.m.**Location:** U.S. Bankruptcy Court, Courtroom "5A," 411 W. Fourth Street, Santa Ana, CA 92701Type of Sale: ☒ Public☐ PrivateLast date to file objections: **March 30, 2010**

Real property located at (1) 31142 Ceanothus (APN # 056-051-85), (2) 31152 Ceanothus (APN # 056-051-84), (3) 31162 Ceanothus (APN # 056-051-68), and (4) 31164 Ceanothus (APN # 056-051-74), Laguna Beach, California 92651

Description of Property to be Sold: (collectively, the "Properties")

Terms and Conditions of Sale: Weneta M. A. Kosmala, the Chapter 11 Trustee, proposes to sell real property on terms and conditions outlined in the *California Association of Realtors Purchase Agreements and Addendum to Purchase Agreements* attached as Exhibits 1, 2, 3 & 4 to the "Motion To Sell Real Property (31142, 31152, 31162 and 31164 Ceanothus, Laguna Beach, CA 92651) Free and Clear Of Liens And Other Interests; Declaration of Weneta M. A. Kosmala, Chapter 11 Trustee, and Clarence Yoshikane In Support Thereof" on file with the United States Bankruptcy Court [Dkt No 162]

Proposed Sale Price: (1) \$60,000 for 31162 Ceanothus; (2) \$295,000 for 31164 Ceanothus; (3) \$595,000 for 31152 Ceanothus; and (4) \$595,000 for 31142 Ceanothus for an aggregate total of \$1,545,000.00, less costs of sale (brokers commission of 10% and an estimated 1% for other expenses)

Overbid Procedure (If Any): **SEE RIDER "1" ATTACHED HERETO**

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing: **April 13, 2010 at 10:30 a.m., U.S. Bankruptcy Court, Courtroom 5A, 411 W. Fourth St., Santa Ana, CA 92701**

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

Tamar Kouyoumjian, Esq.

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Los Angeles, CA 90071-1406

Tel: (213) 626-2311; Fax: (213) 629-4520

DATED: March 23, 2010

In re ZOLITE A. SCOTT, deceased,	Debtor.	CHAPTER: 11 CASE NO.: 8:08-bk-13960 ES
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
333 S. HOPE ST., 35TH FLOOR, LOS ANGELES, CA 90071-1406

A true and correct copy of the foregoing document described as "NOTICE OF SALE OF ESTATE PROPERTY" will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d), and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On March 23, 2010, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

- Office of the U.S. Trustee – Michael Hauser, Esq.
- Chapter 11 Trustee – Weneta M. A. Kosmala, Esq.
- Attorney for Debtor – Dean G. Rallis Jr., Esq.
- Attorney for Debtor – Tamar Kouyoumjian, Esq.
- Attorney for Debtor – Alan G. Tippie, Esq.
- Atty for American Express Centurion Bank – Gilbert B. Weisman II, Esq.
- Atty for America's Servicing Co. – Joe M. Lozano, Jr., Esq.
- Atty for America's Wholesale Lender – Lee S. Raphael, Esq.
- Atty for BAC Home Loans – Cassandra J. Richey, Esq.
- Atty for Bankers West Mortgage – Martin W. Phillips, Esq.
- Atty for Bankers West Mortgage – David B. Lally, Esq.
- Atty for Bank of America – Jose A. Garcia, Esq.
- Atty for Bank of America – Brian A. Paino, Esq.
- Atty for Bank of America – Edward T. Weber, Esq.
- Atty for National Bank of Arizona – Ronald D. Roup, Esq.
- Atty for National Bank of Arizona – Donna L. La Porte, Esq.
- Atty for Roundup Funding, LLC – Linh K. Tran, Esq.

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davidlallylaw@gmail.com
ecfcacb@piteduncan.com
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bline.chapter13@blinellc.com

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On March 23, 2010, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follow. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Erithe Smith, U.S. Bankruptcy Judge, 411 W. Fourth St., Suite 5041, Santa Ana, CA 92701

John McMonigle, The McMonigle Group, 1000 Newport Center Dr., Newport Beach, CA 92660

Clarence Yoshikane, Prudential CA Realty, 2405 McCabe Way, Suite 100, Irvine, CA 92614

☒ Service information continued on attached page

In re ZOLITE A. SCOTT, deceased, Debtor.	CHAPTER: 11 CASE NO.: 8:08-bk-13960 ES
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III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on March 23, 2010, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

INTERESTED PARTY

Mark T. Scott
marktscott@q.com
marktscott@hotmail.com

Carl Post and Cheryl Post
c/o Janet E. Humphrey, Esq.
Songstad & Randall LLP
2201 Dupont Dr., Suite 100
Irvine, CA 92612
jhumphrey@sr-firm.com

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

<u>March 23, 2010</u> Date	<u>Kathleen Fox</u> Type Name	<u>/s/ Kathleen Fox</u> Signature
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In re ZOLITE A. SCOTT, deceased, Debtor.	CHAPTER: 11 CASE NO.: 8:08-bk-13960 ES
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RIDER "1"

THE PROPOSED OVERBID PROCEDURE

The Trustee proposes the following overbid procedures.

1. Only Qualified Bidders may submit an overbid. A "qualified bidder" is one who provides evidence of pre-qualification for any loan upon which the bidder will rely in funding a purchase of the Property, a financial statement and such business and banking references as are required in Trustee's reasonable discretion sufficient to assure Trustee of the bidder's ability (based upon availability of financing, experience or other conditions) to consummate the purchase of the Property, AND such other proof that the bidder is one who can consummate the purchase of the Property on the same terms and conditions, other than price, as those proposed in the attached Purchase Agreement (collectively, the "Supporting Documentation");
2. The initial bid and Supporting Documentation of any Qualified Bidder must be received by the Trustee no later than three (3) business days prior to the hearing on this Motion;
3. The initial minimum overbid price shall be no less than \$10,000.00 over the original offer, or with respect to 31142 Ceanothus, Laguna Beach, California, \$605,000; with respect to 31152 Ceanothus, Laguna Beach, California, \$605,000; with respect to 31162 Ceanothus in Laguna Beach, California, \$70,000; and with respect to 31164 Ceanothus, Laguna Beach, California, \$305,000.00. Subsequent bidding increments shall be no less than \$1,000.00 or such minimum increments as the Court may fix;
4. Each bid must be all cash, non-contingent, and on the same terms and conditions, other than price, as those proposed in the Purchase Agreement;
5. A Qualified Bidder must be prepared to close escrow within ten (10) Court days following the entry of an order approving the sale;
6. For higher bids on 31162 Ceanothus Drive, Laguna Beach, California, each Qualified Bidder must include make an overbid for 31152 Ceanothus, Laguna Beach, California;
7. Each Qualified Bidder must make an "earnest money" deposit equal to five percent (5%) of the proposed purchase price as set forth hereinabove for each property on which an overbid is to be submitted, plus the \$10,000.00 initial overbid. The deposit must be in cash, cashier's check, certified check or irrevocable letter of credit, and must be deposited with the Trustee so that the Trustee will have access to said funds no later than three (3) business days proper to the hearing on this Motion; and
8. Each Qualified Bidder must agree that if said Qualified Bidder is the successful bidder, he/she/it will reimburse the Proposed Buyer for actual costs incurred in connection with the Proposed Buyer's offer, up to \$25,000.00 for the following properties: 31142, 31152, and 31162 Ceanothus in Laguna Beach, and up to \$50,000.00 for the Property located at 31164 Ceanothus in Laguna Beach, pursuant to demand in escrow, in addition to the overbid amount. Reimbursable costs mean costs incurred by the Proposed Buyers that relate to the subject property and produce a product that can and will be provided to the successful overbidder. The Trustee will attempt to ascertain what if any costs may fall under this category prior to the due date for the submission of overbids.